

REMARKS

Claims 1 and 3-10 are presented. Claims 1, 9 and 10 are independent.

The claims rejected as unpatentable over the prior art have all been amended by amendment of independent claims 1 and 9. The other claims have been amended to the extent necessary to overcome various formal rejections.

The drawings are objected to under 37 C.F.R. 1.83(a). The Office Action suggests in section 1 on page 2 that the “adjacent side wall (2) is folded down onto itself for abutment inner face to inner face” as recited in claim 10 is not illustrated. That contention is respectfully traversed. The feature is illustrated for example in Fig. 8, which shows the side wall 2 folded down onto itself at its upper edge portion 58. See the specification at page 11, paragraph beginning at line 14. Since the feature in question is already illustrated, it is respectfully requested that the requirement for a drawing amendment be withdrawn.

Claim 10 is rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not disclosed in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The rejection is respectfully traversed. The feature that the side wall is folded down onto itself for abutment inner face to inner face is taken from claim 10 as originally filed, which is part of the disclosure. Accordingly, it cannot be new matter. Moreover, the feature is illustrated in Fig. 8 and described in the application on page 11, as indicated above. Withdrawal of the rejection under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 1 and 3-10 are rejected under 35 U.S.C. §112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The various instances of clerical errors and lack of antecedent basis indicated in the Office Action have been corrected. Withdrawal of the rejection is respectfully requested.

Claims 1, 3, 4 and 7 are rejected under 35 U.S.C. §103 (a) as being unpatentable over Watanabe in view of Heintz et al. Claims 1, 5 and 6 are rejected under 35 U.S.C. §103 (a) as being unpatentable over Watanabe in view Gotoh et al. Claims 1, 8 and 9 are rejected under 35 U.S.C. §103 (a) as being unpatentable over Rohdin '109. The rejections are respectfully traversed.

All of the claims rejected as unpatentable over the prior art have been amended by amendment of independent claims 1 and 9. Claim 1 as amended is directed to a stand-up bag of a heat-sealable or weldable plastic film for containing flowable or pourable products. The bag comprises two opposing side walls each having an inner face and an outer face and being formed of a single film or sealed together inner face to inner face along lateral edges thereof by means of side seams. An inwardly folded bottom wall is provided having an inner face and an outer face and extending between lower portions of the side walls and sealed to the respective side walls inner face to inner face along transverse bottom seams and along bottom side seams. The inwardly folded bottom wall is further sealed outer face to outer face along bottom side seams. An inwardly folded top wall is provided having an inner face and an outer face and extending between upper portions of the side walls and connected to the respective side walls along transverse top connections and sealed to the respective side walls along top side seams. The inwardly folded top wall is further sealed outer face to outer face along top side seams. The bag

is characterized in that at least one of the transverse connections between the top wall and the side walls is a heat-sealed peelable connection provided between an upper edge portion of the top wall and an upper edge portion of the adjacent side wall. Moreover, the upper edge portions of the top wall and of the adjacent side walls extend beyond the transverse peelable connection to form gripping members accessible from the outside of the bag. The invention as defined in claim 9 is characterized in that above the peelable connection both an upper edge portion of the top wall and an upper edge portion of an adjacent side wall are folded down onto the adjacent side wall.

The invention as defined in the claims as amended and resubmitted is neither disclosed nor suggested by the documents relied upon.

In order to obtain a regular stand-up bag having the desired qualities as to its ability to stand up stably on its bottom and an attractive appearance, it is advantageous that the bag be provided with the transverse bottom sealing seams (2, 8) between the lower edges of the inwardly folded bottom wall 4 and the lower edges of the adjacent sides (1, 2, respectively) and with sealing seams sealing the inwardly folded bottom wall 4 outer face to outer face along the bottom side seams.

The Office Action indicates in the second paragraph of section 7 on page 5 that the present invention is limited to a stand-up bag having walls made from separate films sealed together; see also the third paragraph of section 9. However, the invention is not limited to that feature: e.g., the bag may also be formed of a single film web as stated in the first full paragraph on page 8 of the specification as originally filed in the USPTO. On the other hand, the provision of the transverse bottom seams (7, 8) is a noteworthy feature of the present invention for

obtaining a proper stand-up bag, as mentioned above.

In section 7 of the Office Action, claims 1, 3, 4 and 7 are rejected as being unpatentable over Watanabe (JP 5147661) in view of Heintz et al. (US 5,238,306).

Watanabe (JP 5147661) discloses a bag 1 made from a film and having a top folding part 3 of a gusset folding extending approximately parallel to and in the vicinity of an opening 4 of the bag 1 at an appropriate location of a front surface of the bag's main body 2. Male and female fasteners 5 are formed on the inside of the opening. Further the bag comprises bottom folding parts 6, 6 formed at the bottom of the main body. On the inner sides of the respective folding parts 6, 6 and 3 exposing openings 9, 9 and 8, 8 are provided exposing the polyethylene on the inner surface of the film. The folding parts 6, 6 and 3 are fixed by welding through the openings 9, 9 and 8, 8, whereby a small bag 10 for storing a spoon 11 or the like is formed at the same time.

According to the Office Action, Watanabe discloses the claimed invention except for , as the Examiner recognizes, "the walls being separate films sealed together" (Office Action, section 7, second paragraph) and "a heat-sealed peelable connection between the top and side wall (Office Action, section 7, third paragraph). However, as seen especially in Figs. 1 and 2 of Watanabe, that document fails to disclose or suggest the following features of the claimed invention:

- The transverse bottom seams 7, 8;
- The inwardly folded bottom wall being sealed outer face to outer face along the bottom side seams, and
- The inwardly folded top wall being sealed outer face to outer face along the top side seams.

Further, Watanabe discloses not a proper stand-up bag but rather the formation of a small auxiliary bag 10 for storing a spoon 11 or the like, as shown in Fig. 3 of Watanabe.

Heintz et al. (US 5,238,306) discloses a closure system for a package comprising profile strips to be heat-sealed to the walls of the package. The profile strips comprise male and female fasteners 6, 8 and additionally strips 22, 24 of a peelable material being heat-sealable to form a peelable seal. Heintz et al. does not disclose a specific package, especially not a stand-up bag as in claim 1 of the present application.

Further, Heintz et al. does not contain any teaching that would prompt a person skilled in the art to combine the features stated in the preamble to claim 1 with the features stated in the characterizing clause of claim 1 and thereby arrive at the claimed invention. Even if, as suggested in the Office Action, it would be obvious for a person skilled in the art to combine the male and female fasteners of Watanabe with the heat-sealed peelable connection of Heintz et al, that combination does not amount to the claimed invention. It would result instead in a bag having a closure system comprising profile strips having male and female fasteners and being mutually peelably heat-sealed. However, the resulting bag differs from the claimed stand-up bag in that it does not have the following features thereof:

- The transverse bottom seams 7, 8;
- The inwardly folded bottom wall being sealed outer face to outer face along the bottom side seams, and
- The inwardly folded top-wall being sealed outer face to outer face along the top side seams.

Additionally, the resulting bag would be burdened with the small bag 10 for storing a

spoon or the like. The small bag, which would have to be straight in order to accommodate a straight spoon, is at odds with the formation of a proper stand-up bag, formed of plastic film. Such a bag, while possibly being rectangular in cross section in idealized form, tends naturally to assume a substantially cylindrical shape at the top thereof.

In section 8 of the Office Action, claims 1, 5 and 6, are rejected as being unpatentable over Watanabe (JP5147661) in view of Gotoh et al. (US 5,538,345). The subject matter of Watanabe is described above and thus not repeated here.

Gotoh (US 5,538,345) discloses a bag 1 having an opening end being hermetically sealed by means of a heat-sealed peelable connection between opposite side walls. The peelable connection comprises an intermediate strip 2 weakly bonded to outer strips 6 and 7 at interfaces 8, the outside of each outer strip being strongly bonded by heat sealing (at 9) to the inside of the bag 1. The bag is opened by the peeling of one of the interfaces 8. Further according to Fig. 4, the opening end of the bag is provided with reclosable male and female fasteners 12 adjacent the peelable connection.

Gotoh does not disclose a stand-up bag as in claim 1 of the present application and additionally does not contain any teaching that would prompt a skilled person to combine the features stated in the preamble to claim 1 with the features stated in the characterizing clause of claim 1 and thereby arrive at the present invention.

Even if, as suggested in the Office Action it would be obvious for a person of ordinary skill in the art to combine the male and female fasteners of Watanabe with the heat-sealed peelable connection of Gotoh et al, the combination would not result in the claimed invention. Instead, it would produce a bag that can be closed by means of male and female fasteners or by

means of a heat-sealed peelable connection. However, the resulting bag differs from the claimed stand-up bag in that it does not have the following features thereof:

- The transverse bottom seams 7, 8;
- The inwardly folded bottom wall being sealed outer face to outer face along the bottom side seams, and
- The inwardly folded top wall being sealed outer face to outer face along the top side seams.

Additionally the resulting bag would be burdened with the small bag 10 for storing a spoon or the like, which is at odds with the formation of a proper stand-up bag, as indicated above.

In section 9 of the Office Action, claims 1, 8 and 9 are rejected as being unpatentable over Rohdin (US 2,401,109).

Rohdin discloses a bag formed of a heat-sealable material such as "Cellophane" and having a front wall *f*, a rear wall *r*, a bottom gusset or wall 12, and a top gusset or wall 14. The front and rear walls *f*, *r* are mutually sealed along transverse heat seals 22. Additionally the front and the rear walls are sealed to their adjacent gussets 12 and 14 and the gusset folds are secured to each other. The margins 16 and 18 of the top gusset or wall 14 and the front wall *f*, respectively, are mutually heat-sealed.

Thus Rohdin does not disclose the following features of the claimed stand-up bag requested.

- The inwardly folded bottom wall and the respective side wall being sealed inner face to inner face along transverse bottom seams, and
- The heat-sealed connection between the top wall and one of the side walls

being a heat-sealed peelable connection.

In columns 2, lines 18-54, two options for providing the mutual sealing of the margins 16 and 18 are described. In the first option (Fig. 6), when the bag has been filled, the margin 16 and 18 are folded down upon the front wall *f* and pressure is exerted on the front margins 16 and 18 in the direction P by means of a heated member. This provides a heat seal not only between the mutually contacting surfaces of the margins 16, 18 but also between these margins and the front wall.

In the second option, when the bag has been filled, the margins 16 and 18 are mutually heat-sealed while projecting at right angles to the front wall as shown in Fig. 6a. After formation of the seam as shown in Fig. 6a the seam or fin may be folded down onto the wall and secured thereto by heat sealing in the same manner as in Fig. 6 of the margins 16 and 18 may be secured to the wall *f* by applying an adhesive.

Rohdin does not in any way mention the problem of providing an easily openable bag or the possibility of providing peelable seals. Consequently, the assertions in the Office Action that it is unclear whether the heat-sealed connection is peelable and that it would be obvious for a person having ordinary skill in the art to make the heat-sealed connection peelable between the margins 16 and 18 of the top wall 14 and the front wall *f*, respectively, are based on hindsight.

It should be noted that Rohdin was granted in 1946, which is more than 50 years before the filing date of the present application and that it has been known for at least 25 years to provide a peelable seal; see "Handbook of Package Engineering", McGraw-Hill, page 13-8 (of record in the file of the US application). We are advised that, according to the Examiner of a

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corresponding application in Australia, the above Handbook has been available in the Australian Patent Office since 1972.

In spite of that and the long-felt need for an inexpensive, easy-to-produce and easily openable, stand-up bag having the features of claims 1, 8 and 9, this was not achieved prior to the present invention. Thus, the present invention as defined in those claims cannot be considered obvious.

There being no further objections or rejections, the application is in condition for allowance; issuance of a formal Notice of Allowance is respectfully requested.

If a telephone interview would expedite the prosecution of the application, the Examiner is requested to call undersigned counsel.

Respectfully submitted,
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